

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

JOSE REYES HERNANDEZ,)	
)	
Plaintiff,)	
)	
v.)	1:23-CV-755
)	
OFFICER REYNOLDS, SGT. J.)	
RUSSELL, and LT. B.)	
RICHARDSON,)	
)	
Defendants.)	

ORDER

The defendants filed a motion to dismiss, Doc. 11, the plaintiff filed a motion to amend the complaint, and the Magistrate Judge entered an Order and Recommendation in accordance with 28 U.S.C. § 636(b). Doc. 16. The Magistrate Judge granted the motion to amend, Doc. 16 at 9-10, and recommended that all official capacity claims and any supervisory liability claims against defendant Richardson be dismissed, leaving only the excessive force claims against defendants Reynolds and Russell in their individual capacities.

The Clerk served the Order and Recommendation on the parties, mailing the Order and Recommendation to the plaintiff at his address of record. Doc. 17. The envelope containing the Order and Recommendation and Notice was returned to the court by the postal service, marked “RTS – Return to sender, not deliverable as addressed, unable to forward.” Doc. 20. The plaintiff has not provided an updated address to the Clerk. In any event, no objections were filed.


The plaintiff filed a “supplement,” Doc. 18, which the defendants treated as an amended complaint. The defendants then filed an answer to the amended complaint. Doc. 19.

The Court has reviewed the matter and, after consideration of the record, the Court hereby adopts the Magistrate Judge’s Recommendation in full.

It is **ORDERED** that:

1. The motion to dismiss filed by defendants, Doc, 11, is **GRANTED**. All official capacity claims against defendants Russell, Reynolds, and Richardson are **DISMISSED**.
2. The excessive force claims against defendants Reynolds and Russell in their individual capacities may proceed.
3. The case is referred to the Magistrate Judge for an initial pretrial scheduling order and other case management proceedings.
4. The plaintiff is reminded of his obligation to keep the Clerk informed of a current address. Failure to do so may eventually result in dismissal of his case for failure to prosecute, and dismissal can also happen if the plaintiff does not comply with a court order related to scheduling or other matters.

This the 5th day of August, 2024.



UNITED STATES DISTRICT JUDGE